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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

UNITED STATES OF AMERICA	) Magistrate Docket No. '08 MJ 0255
	)
	)
Plaintiff	)
	) COMPLAINT FOR
v.	) VIOLATION OF:
	) **TITLE 18 U.S.C. § 1544**
Moises BUENROSTRO	) **Misuse of Passport**
AKA: Mario Cecilio ZUNIGA	) **TITLE 8 U.S.C. § 1326**
	) **Attempted Entry After Deportation**
	)

BY: DEPUTY

The undersigned complainant, being duly sworn, states:

Count 1

On or about January 25, 2008, within the Southern District of California, defendant Moises BUENROSTRO did knowingly and willfully use a passport issued or designed for the use of another, with the intent to gain admission into the United States in the following manner, to wit: Defendant applied for entry to the United States by presenting photo-subbed and altered US passport number 035260761, issued in the name Mario Cecilio ZUNIGA, to a Department of Homeland Security, Customs and Border Protection Officer, at the San Ysidro Port of Entry, knowing full well that he was not Mario Cecilio ZUNIGA, that the passport was not issued or designed for his use, and that he is not a United States citizen entitled to a U.S. Passport; in violation of Title 18, United States Code, Section 1544.

Count 2

On or about January 25, 2008, within the Southern District of California, defendant Moises BUENROSTRO, an alien, who previously had been excluded, deported and removed from the United States to Mexico, attempted to enter the United States with the purpose; i.e. conscious desire, to enter the United States at the San Ysidro Port of Entry, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

Richard M. Escott
Senior Special Agent
U.S. Department of State
Diplomatic Security Service

SWORN AND SUBSCRIBED TO before me
This 28th day of January 2008.

UNITED STATES MAGISTRATE JUDGE

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PROBABLE CAUSE STATEMENT & STATEMENT OF FACTS

I, Richard Michael Escott, being duly sworn, declare under penalty of perjury that the following statement is true and correct:

1. I am a Senior Special Agent (SSA) with the U.S. Department of State, Diplomatic Security Service (DSS) assigned to the San Diego, CA Resident Office. I have been so employed for eight years and have investigated numerous violations involving the false application for and misuse of United States Passports and Visas.

2. During the performance of my duties, I have obtained evidence that Moises BUENROSTRO, aka: Mario Cecilio ZUNIGA used the passport issued for the use of another and attempted to reenter the United States after having been deported, without authorization. This Affidavit is made in support of a complaint against DEFENDANT for violation of Title 18, U.S.C., Section 1544, Misuse of a Passport and Title 8, U.S.C., Section 1326, Attempted Reentry After Deportation.

3. On 01/25/2008, at approximately 0730 hours, DEFENDANT was the driver of a vehicle and presented himself to a Department of Homeland Security, Customs and Border Protection (CBP) Officer at the vehicle lines of the San Ysidro Port of Entry, to apply for admission into the United States. DEFENDANT identified himself with photo-subbed and altered US Passport number 035260761, bearing the name Mario Cecilio ZUNIGA, DPOB 07/22/1947, Guatemala, and a photograph of DEFENDANT. DEFENDANT was escorted to secondary inspection.

4. On 01/25/2008, at approximately 1310 hours, the Affiant was advised by a CPB Officer at the San Ysidro POE that DEFENDANT had been detained at the secondary inspection area of the San Ysidro POE.

5. On 01/25/2008, at approximately 1800 hours, DEFENDANT was retrieved from secondary inspection at the Port Enforcement Team area and was brought to an interview room. The Affiant, assisted by a CBP Officer obtained consent from DEFENDANT to have his interview audio and video taped. DEFENDANT was read his Miranda warning aloud in Spanish from a written copy. He indicated that he understood and waived his right to counsel. He admitted that his true name was Moises BUENROSTRO, DPOB, 05/20/1953, Queretaro, Mexico. He stated that he was a citizen of Mexico and not a citizen of the United States. DEFENDANT admitted that he provided a smuggler with photographs of himself to be placed in a false passport. Then DEFENDANT paid the smuggler $300 for the false US Passport bearing the name Mario Cecilio ZUNIGA and the photograph of DEFENDANT. DEFENDANT was supposed to pay an additional $300 upon successful entry into the United States.

6. DEFENDANT admitted that the original price of being smuggled was $2,500. DEFENDANT was offered the discount in exchange for driving a vehicle that DEFENDANT suspected contained illegal aliens in the trunk of the vehicle.

7. DEFENDANT admitted to using the false passport, to apply for entry into the US on 01/25/2008, at the Ysidro Port of Entry. DEFENDANT said that he had previously been living illegally in the United States. DEFENDANT admitted that he had been previously deported from the United States to Mexico

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and not having authorization to return to the United States. He admitted knowing that the passport was not issued or designed for his use and that it was illegal to use a US Passport in the name of another. He also stated he knew it was illegal to apply for admission to the United States after having been deported and to falsely claim to be a US Citizen. DEFENDANT made a recorded oral confession as to his true identity and to elements of the charges.

On the basis of the facts presented in this probable cause statement consisting of 2 pages, I find probable cause to believe that the defendant named in this probable cause statement committed the offenses on 01/25/2008 - in violation of Title 18, United States Code, Section 1544: Misuse of a passport - when he knowingly and willfully used the passport belonging to another, Mario Cecilio ZUNIGA, knowing that it was not issued or designed for his use, in order to gain admission into the United States and in violation of Title 8, United States Code, Section 1326: Attempted Reentry After Deportation – when he attempted to enter the United States with the purpose; i.e. conscious desire, to enter the United States at the San Ysidro Port of Entry, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States.

1/26/2008 1820 hrs

Richard M. Escott
Senior Special Agent
U.S. Department of State
Diplomatic Security Service

UNITED STATES MAGISTRATE JUDGE

1-26-08 @ 6:56 p.m.
DATE/TIME

TOTAL P.04